

The 20th October, 1970

No. 9056 I-Lab-70/30736.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Municipal Committee, Shahabad.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 1 of 1970

between

**SHRI RATTAN LAL WORKMAN AND THE MANAGEMENT OF M/S MUNICIPAL COMMITTEE,
SHAHABAD**

Present :—

Shri Rattan Lal workman,

Shri D. S. Rekhi, for the management.

AWARD

Shri Rattan Lal was in the service of M/s Municipal Committee as a sweeper. His services were terminated by the committee on 31st August, 1969. This gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute to this Court for adjudication,—*vide* Gazette notification No. ID KL 102-B 70 21050, dated 15th July, 1970 :—

"Whether the termination of services of Shri Rattan Lal Sweeper was justified and in order. If no, to what relief is he entitled ?

Notice was given to the parties. The workman has appeared in person. Shri D. S. Rekhi, representative of the management is also present. It has been stated on both sides that a settlement has been arrived at between the parties as per terms given in Ex. M. 1. According to this settlement, the workman Shri Rattan Lal has been taken back into service as a sweeper by the said committee as a fresh hand with effect from 29th September, 1970 and he has given up his right of back wages as well as continuity of service. Statements of the parties have been recorded.

In view of the above, I give my award in terms of the settlement arrived between the parties. Shri Rattan Lal shall be entitled to work as a fresh hand with the said committee on the same terms and conditions as before without, however, any right to claim back wages and continuity of his past services. There will be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 646, dated Faridabad, the 5th October, 1970.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9054-I-Lab-70/30738.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Chopra Motors (P) Ltd., Murthal Adda, G. T. Road (Sonepat).

**BEFORE SARI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUUAL,
HARYANA, FARIDABAD**

Reference No. 57 of 1970.

Between

**SHRI RAJINDER WORKMAN AND THE MANAGEMENT OF M/S CHOPRA MOTORS
(P) LTD; MURTHAL ADDA, G. T. ROAD (SONEPAT).**

Present:

Shri M. S. Rathi for the workman.

Shri B. R. Khanna, for the management.

AWARD

Shri Rajinder was employed as a Chowkidar in M/s Chopra Motors (P) Ltd; Murthal Adda, G. T. Road (Sonepat). According to him his services were terminated without any justification,—*vide* letter dated 16th August, 1969. This gave rise to an industrial dispute and the Governor of Haryana, in exercise of the powers conferred by clause (d) of Sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal, for adjudication,—*vide* Government Gazette Notification No. ID/RK/155 B/7312, dated 11th March, 1970.

Whether the termination of services of Shri Rajinder was justified and in order. If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The plea taken up by the management in their written statement is that Shri Rajinder was only a casual workman. He joined their service on 21st January, 1967 and worked with them up to 10th May, 1967 and thereafter he re-joined them on 23rd July, 1968 and worked up to 19th March, 1969 and he again came to them on 10th July, 1969 and worked up to 29th July, 1969. According to the version in the written statement the management had no work for him and as such he was asked to try with Shri Mohinder Kumar at Nigdi and vacate the factory premises. The workman controverted the correctness of this version and the pleadings of the parties gave rise to the following issues :—

1. Whether Shri Rajinder claimant was a casual worker ?
2. Whether there was no work for the claimant in their respondent company ?
3. If the above issues are not proved whether the termination of the service of Shri Rajinder was justified and in order ? If not, to what relief is he entitled ?

Issues Nos. 1 and 2.

Shri B. L. Khanna M. W. 1 Manager of the respondent concern admits in his evidence that the workman Shri Rajinder was employed by them as Chowkidar on Rs. 75/- P. M. on 21st January, 1967. Shri Khanna however say that he was not a regular workman and he worked from 21st January, 1967 to 10th May, 1967, from 23rd July, 1968 to 19th March, 1969 and then from 10th July, 1969 to 29th July, 1969. Shri Khanna has however not cared to explain the necessity of employing a Chowkidar for these intermittent periods only. It is not his case that Shri Rajinder was employed for the aforesaid periods because their permanent Chowkidar was on leave or that there was any special necessity to employ Shri Rajinder for the aforesaid periods only. Shri Khanna just makes a vague sort of statement that the services of Shri Rajinder were no longer required and therefore his services were terminated. We further find that the version of Shri Khanna is contradicted by his own admissions in his cross examination. Shri Khanna admits the correctness of the letter of appointment Ex. W-1 dated 21st January, 1967 which was given to the workman. In this letter of appointment it is clearly stated that Shri Rajinder was being appointed on probation for a period of six months and if on completion of the probationary period he was found suitable then he would be made permanent. It is not the case of the management that the services of Shri Rajinder were not found satisfactory during the period of his probation and therefore his services were terminated. On the contrary the plea taken up by the management is that Shri Rajinder was only a casual worker.

The plea of the management that the services of Shri Rajinder were terminated because there was no work for him is also contradicted by the letter Exhibit W. 2 dated 16th August, 1969 by which Shri Rajinder was informed that he was ordered to be dismissed from service on account

of his misbehaviour but he was still wrongfully continuing to stay in the factory premises. The correctness of this latter is admitted by Shri Khanna. It is therefore wrong on the part of the management to stay that the services of Shri Rajinder were terminated because there was no work for him. Since in the letter Exhibit W.2 it is clearly mentioned that the workman was guilty of misbehaviour, a court question was put to Shri Khanna to state what the misbehaviour of the workman was. In reply to this question Shri Khanna stated that the misbehaviour of the workman was that he refused to go to Nanglai and work there. This version is controverted by the allegations made in the written statement that since the management had no work for Shri Rajinder, he was asked to try with Shri Mohinder Kumar at Nanglai. Keeping a workman in services and asking him to work at another place is quite a different thing from saying that there was no work for him and so he was advised to seek work elsewhere. In my opinion it is established beyond doubt by the letter of appointment Exhibit M.1 that Shri Rajinder was not a casual worker and the letter Exhibit W.2 also establishes beyond doubt that his services were terminated not because there was no work for him but because of some alleged misbehaviour. I therefore find both these issues against the management.

Issue No. 3.

Shri Khanna M.W.1 Manager of the respondent concern admits in his evidence that before terminating the services of Shri Rajinder workman, no notice was given to him nor he was given any charge sheet. Since it is proved that Shri Rajinder was not a casual workman, it must be held that the termination of his services was not justified because the management has not been chosen to give the true reasons for the termination of his services. I find this issue in favour of the workman.

In view of my findings above Shri Rajinder is entitled to be reinstated with continuity of services and full back wages. I give my award accordingly. No order as to cost.

Dated 6th October, 1970.

(P. N. Thukral),
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1410, dated 8th October, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 6th October, 1970

P. N. Thukral,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9058-I-Lab-70/30740.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Chopra Motor (P) Ltd., Murthal Adda, G. T. Road (Sonepat).

**BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 56 of 1970

between

**SHRI KRISHAN LAL WORKMAN AND THE MANAGEMENT OF M/S CHOPRA MOTOR
(P) LTD., MURTHAL ADDA, G. T. ROAD, (SONEPAT).**

Present :—

Shri M. S. Rathi, for the workman,
Shri B. R. Khanna, for the management.

AWARD

Shri Krishan Lal claims that he has been working as a Sweeper in the respondent concern M/s Chopra Motor (P) Ltd., Murthal Adda, G. T. Road (Sonepat), from the last 4 years and the management

verbally terminated his services on 19th July, 1959 without disclosing any reasons. The workman is aggrieved by reason of the termination of his services and this gave rise to an industrial dispute. Accordingly the Government of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. 1D/RK/155A/7361, dated 11th March, 1970.

Whether the termination of services of Shri Krishan Lal was justified and in order? If not, to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management have filed their written statement in which it is pleaded that Shri Krishan Lal was only a casual part time Sweeper and was paid Rs. 20/- P.M. and since his services were no longer required on part time bases he was paid off. The workman contested the correctness of the version of the management and the pleadings of the parties gave rise to the following issues :—

1. Whether Shri Krishan Lal was working as a Casual Part time Sweeper?
2. Whether the services of Shri Krishan Lal were no longer required on part time bases and he left the services after receiving the full wages?

Issue No. 1.—Shri B. R. Khanna, Manager of the respondent company has appeared as a witness and has been examined as M. W. 1. He brought with him the relevant record from the year 1966 upto 1969 and after referring to the record stated that the applicant Shri Krishan Lal had worked only as a part time sweeper on Rs 20/- P.M. According to Shri Khanna, Shri Krishan Lal used to work only for about half an hour every day and there was no fixed timings of his work. The reason for the termination of services of Shri Krishan Lal is said to be that the management had not been able to set up their factory and therefore his services were no longer required.

In rebuttal the applicant Shri Krishan Lal had appeared as his own witness and had stated that he used to work for 8 hours daily although he was being paid Rs 20 P.M. only. He says that he used to sweep the flour and some time used to put earth on the roof and sometimes he used to work as a gardener. He admitted that he could not say as to whether the management have employed any other sweeper after terminating his services. The workman has not produced any other witness to corroborate his version that he used to work for 8 hours every day.

I have carefully considered the evidence produced by the parties and in my opinion it is difficult to believe that Shri Krishan Lal used to work 8 hours daily during the last 4 years on Rs 20 P.M. only. In cross-examination the workman has explained that he continued accepting Rs 20 P.M. only in the hope that the management would increase his salary. It might have been possible to believe the workman if he had worked for a few months on a meagre salary and the management held out a hope to him that his salary would be increased if his work was found satisfactory. The workman does not say in his evidence that he was given any such hope by the management. In view of the evidence of Shri Khan na that Shri Krishan Lal used to work for about half an hour only and that his working hours were not fixed, I am of the opinion that the applicant Shri Krishan Lal can not be held to be a workman as defined in the Industrial Disputes Act because the management did not exercise any control with regard to the time at which he was to work. I find this issue in favour of the management.

Issue No. 2.—Shri Krishan Lal was admittedly working as a part time sweeper. The management have led no evidence to prove that the work which Shri Krishan Lal was doing has been entrusted to any of their existing employees. It is also not the case of the management that they have totally closed their establishment and they do not require any cleanliness in future and therefore they do not need a sweeper at all. In my opinion there is no satisfactory evidence that the applicant Shri Krishan Lal became surplus and was therefore paid off for this reason. I find this issue against the management.

In view of my findings on Issue No. 1 I am of the opinion that the applicant Shri Krishan Lal does not fall within the definition of workman and therefore he is not entitled to any relief. I give my award accordingly.

No order as to cost.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 6th October, 1970.

No. 1411

Dated the 8th October, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 6th October, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9057-I Lab-70/39742.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Municipal Committee, Kaithal.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 2 of 1970

Between

**THE WORKMEN AND THE MANAGEMENT OF M/S MUNICIPAL COMMITTEE,
KAITHAL**

Present:—

Nemo for the workmen.

Shri Ram Gopal for the management.

AWARD

Sarvshrimati Chand Bai, Nathi Devi and Surji were in the service of M/s Municipal Committee, Kaithal as a sweeper. Their services were terminated by the committee on 13th August, 1969 which gave rise to an industrial dispute between the parties. The Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/KL/60-A/21011, dated 15th July, 1970:—

“Whether the termination of services of Sarvshrimati Chand Bai, Nathi Devi and Surji was justified and in order? If not, to what relief are they entitled?

On receipt of the reference, usual notices were issued to the parties but they did not appear inspite of notice on the last date fixed in the case which was 27-8-70. An intimation in writing was however, received from the Administrator of the said municipality to the effect that a settlement had been arrived at between the parties and according to that settlement, the workmen had been taken back in service and they had withdrawn their demand notices. It had further been agreed between the parties that the intervening period would be treated as leave without pay.

Since the party had not appeared in person or through their authorised representative. It was considered necessary to issue another notice to them and they were accordingly called upon to appear for verification of truth or otherwise of the alleged settlement of dispute between them. Shri Ram Gopal has appeared on behalf of the Committee but neither the workmen nor their authorised representative, Shri Bhagat Ram have come forward to dispute the factum of the settlement. Statement of Shri Ram Gopal has been recorded and he has proved the various documents pertaining to the above said settlement which are on record and has been exhibited Ex. M. 1, 2, 3 and 4.

In view of the above, I am satisfied that there is now no dispute between the parties and that being so no further investigation is called for in the case. The workmen have already been taken back in service and they have themselves forgone their claim for back wages. I, therefore, give a no dispute award in the case. There will be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 28th September, 1970.

No. 645, dated Faridabad, the 5th October, 1970.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9186-I-Lab-70/30744.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s. Kundli Engineering Works Ltd., Kundli.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 63 of 1970

between

**SHRI DHARAM PAUL SINGH WORKMAN AND THE MANAGEMENT OF M/S. KUNDLI
ENGINEERING WORKS LTD., KUNDLI**

Present.—

Shri M. S. Rathi, for the workman.

Shri J. S. Dutta, for the management.

AWARD

Shri Dharam Paul Singh was in the employment of M/s. Kundli Engineering Works Ltd., Kundli. His services were terminated by the management. This gave rise to an industrial dispute between the parties. The Governor of Haryana had been pleased to refer the dispute for adjudication to the Labour Court, Faridabad, presided over by Shri P. N. Thukral under clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. D/RK/109-A-69 17448, dated 20th June, 1969. The matter in issue being as given below :—

“Whether the termination of services of Shri Pala Ram was justified and in order? If not, to what relief is he entitled?

While this reference was still pending adjudication the appointment of Shri P. N. Thukral as Presiding Officer of the Labour Court was held to be invalid,—*vide* judgement dated 2nd September, 1969 of the High Court for the States of Punjab and Haryana in another case of M/s. Gedore Tools (1) Ltd., Faridabad. The Governor of Haryana has been further pleased to refer the above dispute to this Court by a fresh Notification No. 6091-E-Lab-70/22387, dated 31st July, 1970. The file containing the original order of reference has also been received and the case has been registered afresh.

Notice was given to the parties and they have appeared. It has been urged on behalf of the management that a settlement has been arrived at with the workman and he has given up his right of re-instatement or re-employment after receiving Rs. 224.17 in full and final settlement of his claim. A duly signed and stamped receipt of the workman has also been produced. Shri M. S. Rathi appeared on behalf of the workman has not disputed the aforesaid settlement between the parties.

In view of the above, no further investigation is necessary in the case. The workman having given up his right of reinstatement or re-employment with the management concerned after receiving Rs. 224.17 in full and final settlement of his dues is not entitled to any further relief in the case. I give my award accordingly. There will be no order as to costs.

The 5th October, 1970.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 671, dated Faridabad, the 6th October, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.